

OFFICE OF THE STATE CONTROLLER
1998 CAFR FOOTNOTES WORKSHEET- UNIVERSITY

PENSION PLANS

SPECIAL SEPARATION ALLOWANCE FOR RETIRED LAW ENFORCEMENT OFFICERS

Eligibility Requirements for Special Separation Allowance Benefits:

To qualify for the Special Separation Allowance, each sworn law enforcement officer must have retired on a basic service retirement under the provisions of G.S. 135-5(a) and also must:

- (1) have completed 30 or more years of creditable service or have attained 55 years of age and completed five or more years of creditable service; and
- (2) not have attained 62 years of age; and
- (3) have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement.

Definition of Law enforcement Officer:

G.S. 135-1(11b) and G.S. 143-166.30(a)(4) both define the term *law enforcement officer* as "a full-time paid employee of an employer who is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State of North Carolina or serving civil processes, and who possesses the power of arrest by virtue of an oath administered under the authority of the State."

G.S. 143-166.41. Special separation allowance.

(a) Notwithstanding any other provision of law, every sworn law-enforcement officer as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department, agency, or institution who qualifies under this section shall receive, beginning on the last day of the month in which he retires on a basic service retirement under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to him for each year of creditable service. The allowance shall be paid in 12 equal installments on the last day of each month. To qualify for the allowance the officer shall:

(1) Have (i) completed 30 or more years of creditable service or, (ii) have attained 55 years of age and completed five or more years of creditable service; and

(2) Not have attained 62 years of age; and

(3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

(b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.

(c) Payment to a retired officer under the provisions of this section shall cease at the death of the individual or on the last day of the month in which he attains 62 years of age or upon the first day of reemployment by any State department, agency, or institution.

(d) This section does not affect the benefits to which an individual may be entitled from State, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by the General Assembly for employees of the State or retired employees of the State.

(e) The head of each State department, agency, or institution shall determine the eligibility of employees for the benefits provided herein.

(f) The Director of the Budget may authorize from time to time the transfer of funds within the budgets of each State department, agency, or institution necessary to carry out the purposes of this Article. These funds shall be taken from those appropriated to the department, agency, or institution for salaries and related fringe benefits.

(g) The head of each State department, agency, or institution shall make the payments set forth in subsection (a) to those persons certified under subsection (e) from funds available under subsection (f).

(1983 (Reg. Sess., 1984), c. 1034, s. 104; 1985, c. 479, s. 143; 1985 (Reg. Sess., 1986), c. 1014, ss. 51, 52.)

Editor's Note. - Section 143-166, referred to in subsection (a) of this section, was repealed by Session Laws 1985, c. 479, s. 196(t), effective January 1, 1986. See now 143-166.50, 143-166.6

"Creditable service," for purposes of determining a local law enforcement officer's eligibility for the special separation allowance benefit and for calculating the amount of that benefit, is service for which credit is allowed under either retirement system of which the officer is a member. See opinion of Attorney General to Claire McNaught, Public Safety Attorney, City of Winston-Salem, 56 N.C.A.G. 40 (1986).

A local law enforcement officer's eligibility for the special separation allowance benefit is in all instances determined by the officer's local government employer. See opinion of Attorney General to Claire McNaught, Public Safety Attorney, City of Winston-Salem, 56 N.C.A.G. 40 (1986).

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